

Department of State

§ 103.7

(2) Such activity is authorized by a search warrant obtained pursuant to section 305(b)(4) of the CWCIA.

Subpart C—Recordkeeping and Inspection Requirements

§ 103.4 General.

This subpart implements the enforcement of the civil penalty provisions of section 501 of the Chemical Weapons Convention Implementation Act of 1998 (CWCIA), and sets forth relevant administrative proceedings by which such violations are adjudicated. Both the Department of State (in this subpart), and the Department of Commerce (in part 719 of the CWCIA at 15 CFR parts 710 through 722) are involved in the implementation and enforcement of section 501.

§ 103.5 Violations.

(a) *Refusal to permit entry or inspection.* No person may willfully fail or refuse to permit entry or inspection, or disrupt, delay or otherwise impede an inspection, authorized by the CWCIA.

(b) *Failure to establish or maintain records.* No person may willfully fail or refuse:

(1) To establish or maintain any record required by the CWCIA or the Chemical Weapons Convention Regulations (CWCIA, 15 CFR parts 710 through 722) of the Department of Commerce; or

(2) To submit any report, notice, or other information to the United States Government in accordance with the CWCIA or CWCIA; or

(3) To permit access to or copying of any record that is exempt from disclosure under the CWCIA or the CWCIA.

§ 103.6 Penalties.

(a) *Civil penalties—(1) Civil penalty for refusal to permit entry or inspection.* Any person that is determined to have willfully failed or refused to permit entry or inspection, or to have willfully disrupted, delayed or otherwise impeded an authorized inspection, as set forth in § 103.5(a), shall pay a civil penalty in an amount not to exceed \$25,000 for each violation. Each day the violation continues constitutes a separate violation.

(2) *Civil penalty for failure to establish or maintain records.* Any person that is

determined to have willfully failed or refused to establish or maintain any record, or to submit any report, notice, or other information required by the CWCIA or the CWCIA, or to permit access to or copying of any record exempt from disclosure under the CWCIA or CWCIA as set forth in § 103.5(b), shall pay a civil penalty in an amount not to exceed \$5,000 for each violation.

(b) *Criminal penalties.* Any person that knowingly violates the CWCIA by willfully failing or refusing to permit entry or inspection; or by disrupting, delaying or otherwise impeding an inspection authorized by the CWCIA; or by willfully failing or refusing to establish or maintain any required record, or to submit any required report, notice, or other information; or by willfully failing or refusing to permit access to or copying of any record exempt from disclosure under the CWCIA or CWCIA, shall, in addition to or in lieu of any civil penalty that may be imposed, be fined under Title 18 of the United States Code, or be imprisoned for not more than one year, or both.

(c) *Other remedial action—(1) Injunction.* The United States may, in a civil action, obtain an injunction against:

(i) The conduct prohibited under 18 U.S.C. 229 or 229C; or

(ii) The preparation or solicitation to engage in conduct prohibited under 18 U.S.C. 229 or 229D.

(2) In addition, the United States may, in a civil action, restrain any violation of section 306 or section 405 of the CWCIA, or compel the taking of any action required by or under the CWCIA or the Convention.

§ 103.7 Initiation of administrative enforcement proceedings.

(a) *Issuance of Notice of Violation and Assessment (NOVA).* The Director of the Office of Export Enforcement, Bureau of Export Administration, Department of Commerce, may request that the Secretary initiate an administrative enforcement proceeding under this section and 15 CFR 719.5. If the request is in accordance with applicable law, the Secretary will initiate an administrative enforcement proceeding by issuing a Notice of Violation and Assessment (NOVA). The Office of Chief Counsel for Export Administration, Department of